

IC 10-13-3

Chapter 3. Criminal History Information

IC 10-13-3-1

"Bias crime"

Sec. 1. As used in this chapter, "bias crime" means an offense in which the person who commits the offense knowingly or intentionally:

- (1) selected the person who was injured; or
- (2) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-2

"Care"

Sec. 2. As used in this chapter, "care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children less than eighteen (18) years of age.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-3

"Certificated employee"

Sec. 3. As used in this chapter, "certificated employee" has the meaning set forth in IC 20-7.5-1-2.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-4

"Council"

Sec. 4. As used in this chapter, "council" means the security and privacy council established by section 34 of this chapter.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-5

"Criminal history data"

Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

- (1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2) Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12.
- (3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-6

"Criminal justice agency"

Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

- (1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2) the location of parents with child support obligations under 42 U.S.C. 653;
- (3) the licensing and regulating of riverboat gambling operations; or
- (4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

- (1) The office of the attorney general.
- (2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.
- (3) A nongovernmental entity that performs as its principal function the:

- (A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;
- (B) location of parents with child support obligations under 42 U.S.C. 653;
- (C) licensing and regulating of riverboat gambling operations; or
- (D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

- (A) child at imminent risk of placement;
- (B) child in need of services; or
- (C) delinquent child.

As added by P.L.2-2003, SEC.4. Amended by P.L.70-2004, SEC.1.

IC 10-13-3-7

"Disposition"

Sec. 7. As used in this chapter, "disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-8

"Inspection"

Sec. 8. As used in this chapter, "inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-9**"Institute"**

Sec. 9. As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-10**"Law enforcement agency"**

Sec. 10. (a) As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

(b) The term includes the office of the attorney general.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-11**"Limited criminal history"**

Sec. 11. (a) As used in this chapter, "limited criminal history" means information with respect to any arrest or criminal charge, which must include a disposition.

(b) However, the term includes information about any arrest or criminal charge that occurred less than one (1) year before the date of a request even if no disposition has been entered.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-12**"National criminal history background check"**

Sec. 12. As used in this chapter, "national criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-13**"No contact order"**

Sec. 13. As used in this chapter, "no contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under any of the following:

- (1) IC 31-32-13.
- (2) IC 31-34-17.
- (3) IC 31-34-20.
- (4) IC 31-37-16.
- (5) IC 31-37-19-1.
- (6) IC 31-37-19-6.

- (7) IC 33-39-1-8.
- (8) IC 35-33-8-3.2.
- (9) IC 35-38-2-2.3.

As added by P.L.2-2003, SEC.4. Amended by P.L.98-2004, SEC.80.

IC 10-13-3-14

"Noncertificated employee"

Sec. 14. As used in this chapter, "noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-15

"Protective order"

Sec. 15. (a) As used in this chapter, "protective order" has the meaning set forth in IC 5-2-9-2.1.

(b) The term includes a foreign protection order (as defined in IC 34-6-2-48.5).

As added by P.L.2-2003, SEC.4.

IC 10-13-3-16

"Qualified entity"

Sec. 16. (a) As used in this chapter, "qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services.

(b) The term includes a business or an organization that licenses or certifies others to provide care or care placement services.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-17

"Release"

Sec. 17. As used in this chapter, "release" means furnishing a copy or an edited copy of criminal history data.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-18

"Reportable offenses"

Sec. 18. As used in this chapter, "reportable offenses" means all felonies and those misdemeanors the superintendent designates.

As added by P.L.2-2003, SEC.4. Amended by P.L.156-2003, SEC.4.

IC 10-13-3-19

"Request"

Sec. 19. As used in this chapter, "request" means asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner that:

- (1) reasonably ensures the identification of the subject of the inquiry; and
- (2) contains a statement of the purpose for which the information is requested.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-20**"School corporation"**

Sec. 20. As used in this chapter, "school corporation" has the meaning set forth in IC 20-10.1-1-1.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-21**"Special education cooperative"**

Sec. 21. As used in this chapter, "special education cooperative" has the meaning set forth in IC 20-1-6-20.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-22**"Unidentified person"**

Sec. 22. As used in this chapter, "unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-23**"Workplace violence restraining order"**

Sec. 23. As used in this chapter, "workplace violence restraining order" means an order issued under IC 34-26-6.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-24**State central repository; report of arrests**

Sec. 24. (a) The department shall act as the official state central repository for criminal history data.

(b) A sheriff, police department, or criminal justice agency in Indiana shall report to the department, on forms provided by the department, all arrests for reportable offenses.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-25**Disposition reports**

Sec. 25. (a) If a person whose arrest has been reported as required by section 24 of this chapter is:

- (1) transferred to the custody of another criminal justice agency; or
- (2) released without having an indictment or information filed with any court;

a disposition report shall be furnished to the department by the agency from whose custody the person has been transferred or released. Disposition reports shall be made on forms provided by the department.

(b) If an indictment or information is filed in a court, the clerk of the court shall furnish to the department, on forms provided by the department, a report of the disposition of the case.

(c) A disposition report, whether by a criminal justice agency or

a court clerk, shall be sent to the department within thirty (30) days after the disposition.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-26

Release of data to criminal justice agencies

Sec. 26. (a) A criminal justice agency:

(1) shall provide criminal history data to another criminal justice agency upon request; and

(2) may receive criminal history data from another criminal justice agency.

(b) If the request is made by an agency doing a presentence investigation, the information shall be transmitted not later than seven (7) days after the date that the request is received.

(c) The department shall provide criminal history data to a criminal justice agency making a request if the council determines that the agency has complied with this chapter.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-27

Release of data to noncriminal justice organization or to individuals; national crime information center data restricted; penalties

Sec. 27. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

(10) is being investigated for welfare fraud by an investigator of the division of family and children or a county office of

- family and children;
- (11) is being sought by the parent locator service of the child support bureau of the division of family and children;
- (12) is or was required to register as a sex and violent offender under IC 5-2-12; or
- (13) has been convicted of any of the following:
 - (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
 - (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Child exploitation (IC 35-42-4-4(b)).
 - (E) Possession of child pornography (IC 35-42-4-4(c)).
 - (F) Vicarious sexual gratification (IC 35-42-4-5).
 - (G) Child solicitation (IC 35-42-4-6).
 - (H) Child seduction (IC 35-42-4-7).
 - (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 - (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-28

Limited criminal history check on request of an individual seeking employment

Sec. 28. On request of an individual who has applied for employment with a noncriminal justice organization or individual, the Indiana central repository for criminal history information shall process a request for a limited criminal history check of the individual making the request from the Federal Bureau of Investigation's National Crime Information Center upon:

- (1) the submission of fingerprints of the individual making the request; and
- (2) the payment of a fifteen dollar (\$15) fee.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-29

Use by noncriminal justice organizations or individuals restricted

Sec. 29. A noncriminal justice organization or individual that receives a limited criminal history may not use it for purposes:

- (1) other than those stated in the request; or
- (2) that deny the subject any civil right to which the subject is entitled.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-30

Request for limited criminal history; duties of law enforcement agency and department

Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.
- (3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

As added by P.L.2-2003, SEC.4. Amended by P.L.156-2003, SEC.5.

IC 10-13-3-31

Release of data to subject person; fee; challenge of data authorized

Sec. 31. (a) Unless otherwise prohibited by law, a criminal justice agency that maintains criminal history data, upon request and proper identification of the person about whom criminal history data is maintained, shall provide that person with a copy of the person's criminal history data for a reasonable fee.

(b) Any person may challenge the information contained in the person's criminal history data file.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-32

Application of chapter

Sec. 32. This chapter is not applicable to and does not prevent the release or inspection of information contained in the following:

- (1) Wanted person posters or announcements.
- (2) An original record of entry, including a police blotter, maintained by a criminal justice agency.
- (3) Published court or administrative opinions or records of public judicial, administrative, or legislative proceedings.
- (4) Records of traffic offenses maintained by the bureau of motor vehicles.
- (5) Announcements of pardon or executive clemency.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-33

Rules; challenge of data procedure

Sec. 33. (a) The council shall adopt rules under IC 4-22-2 to:

- (1) assure the completeness and accuracy of criminal history data;
- (2) protect information from loss, alteration, destruction, or improper direct access to the information files;
- (3) prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies; and
- (4) carry out this chapter.

(b) If a person makes a challenge under section 31(b) of this chapter, the department shall:

- (1) make the changes requested, if it determines the data is in error; or
- (2) conduct a hearing under IC 4-21.5-3, if requested by the person making the challenge.

(c) The rules adopted under this chapter must provide for inspection in a reasonable and timely manner.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-34

Security and privacy council; establishment; members

Sec. 34. (a) There is established a security and privacy council that consists of nine (9) members selected under subsections (b) and (c).

(b) The following six (6) members shall be appointed by and shall serve at the pleasure of the governor:

- (1) A prosecuting attorney.
- (2) The police chief of a city.
- (3) The sheriff of a county.
- (4) A criminal court judge.
- (5) Two (2) citizens who are not law enforcement officers.

(c) The following persons, or their designees, also are members of the council:

- (1) The superintendent.
- (2) The attorney general.
- (3) The commissioner of the department of correction.

(d) Members of the council are not entitled to receive compensation but are entitled to receive a per diem and mileage on those days in which they are engaged in the business of the council. Per diem and mileage paid shall be that amount paid to state employees.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-35

Indiana data and communication system; national crime information center's missing, wanted, and unidentified person files; entry or deletion of information

Sec. 35. (a) On a daily basis, all law enforcement agencies shall enter into the Indiana data and communication system (IDACS) computer the following:

- (1) All information concerning stolen or recovered property, including the following:
 - (A) Motor vehicles.
 - (B) Firearms.
 - (C) Securities.
 - (D) Boats.
 - (E) License plates.
 - (F) Other stolen or recovered property.
- (2) All information concerning fugitives charged with a crime, including information concerning extradition.
- (3) All information concerning runaways, missing and unidentified persons, and missing children (as defined in IC 10-13-5-4), including information concerning the release of those persons to the custody of a parent or guardian.
- (4) Information contained in a protective order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).

(b) On a daily basis, all law enforcement agencies shall do the following:

- (1) Enter all information concerning missing children (as defined in IC 10-13-5-4) into the National Crime Information Center's Missing Person File.
- (2) Enter all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a missing child into the National Crime Information Center's Wanted Person File.
- (3) Enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.
- (4) Enter all information concerning a protective order, a workplace violence restraining order, or a no contact order involving intimate partners into the National Crime Information Center's (NCIC) Protection Order File if the order qualifies

under NCIC rules.

(c) If a protective order, a no contact order, or a workplace violence restraining order is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) from the Indiana data and communication system (IDACS) computer.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-36

Fees; nonprofit organizations; family and children division; family and children offices; health professions bureau

Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

- (1) that has been in existence for at least ten (10) years; and
- (2) that:
 - (A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;
 - (B) is a home health agency licensed under IC 16-27-1;
 - (C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);
 - (D) is a supervised group living facility licensed under IC 12-28-5;
 - (E) is an area agency on aging designated under IC 12-10-1;
 - (F) is a community action agency (as defined in IC 12-14-23-2);
 - (G) is the owner or operator of a hospice program licensed under IC 16-25-3; or
 - (H) is a community mental health center (as defined in IC 12-7-2-38).

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including

the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

- (1) by a state agency; and
- (2) through the computer gateway that is administered by the intelnet commission under IC 5-21-2 and known as accessIndiana.

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

- (1) made through the computer gateway that is administered by the intelnet commission under IC 5-21-2 and known as accessIndiana; and
- (2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

As added by P.L.2-2003, SEC.4. Amended by P.L.138-2003, SEC.2; P.L.158-2003, SEC.1; P.L.261-2003, SEC.12; P.L.97-2004, SEC.42.

IC 10-13-3-37

Use of fingerprints submitted with certain licensure applications

Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to the following:

- (1) A taxicab driver's license application.
- (2) An application for a license for a massage therapist.
- (3) Reinstatement or renewal of a license described in subdivisions (1) and (2).

(b) An applicant shall submit the fingerprints on forms provided for the license application.

(c) The local law enforcement agency shall charge each applicant the fees set by the department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints.

(d) The local law enforcement agency may:

- (1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and
- (2) receive the results of all fingerprint investigations.

As added by P.L.2-2003, SEC.4.

IC 10-13-3-38

Collection of bias crime information; reports

Sec. 38. (a) A law enforcement agency shall collect information

concerning bias crimes.

(b) At least two (2) times each year, a law enforcement agency shall submit information collected under subsection (a) to the Indiana central repository for criminal history information. Information shall be reported in the manner and form prescribed by the department.

(c) At least one (1) time each year, the Indiana central repository for criminal history information shall submit a report that includes a compilation of information obtained under subsection (b) to each law enforcement agency and to the legislative council. A report submitted to a law enforcement agency and the legislative council under this subsection may not contain the name of a person who:

- (1) committed or allegedly committed a bias crime; or
- (2) was the victim or the alleged victim of a bias crime.

A report submitted to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (e), information collected, submitted, and reported under this section must be consistent with guidelines established for the acquisition, preservation, and exchange of identification records and information by:

- (1) the Attorney General of the United States; or
- (2) the Federal Bureau of Investigation;

under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note).

(e) Information submitted under subsection (b) and reports issued under subsection (c) shall, in conformity with guidelines prescribed by the department:

- (1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained; and
- (2) be divided in reports on the basis of whether, in the opinion of the reporting individual and the data collectors, bias was the primary motivation for the crime or only incidental to the crime.

As added by P.L.2-2003, SEC.4. Amended by P.L.28-2004, SEC.79.

IC 10-13-3-38.5

Use of fingerprints for employment or teacher's license

Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

- (1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-16-2-1;

(E) at the Indiana School for the Blind established by IC 20-15-2-1;

(F) at a juvenile detention facility;

(G) with the gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the professional standards board established under IC 20-1-1.4.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.
As added by P.L.261-2003, SEC.13.

IC 10-13-3-39

Department authorized agency for national criminal history background check

Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the

qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-5-2-8. The department shall respond to the request in conformity with:

- (1) the requirements of 42 U.S.C. 5119a; and
- (2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that:

- (1) is not a school corporation or a special education cooperative; or
- (2) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-5-2-8 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

- (1) is a school corporation or a special education cooperative; and
- (2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-5-2-8 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

As added by P.L.2-2003, SEC.4.